#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 7484 OF 2004

THE SECRETARY, VYAYAM MANDAL
SATARA & ORS. .. PETITIONERS

Versus

DHANANJAY DNYANU SURVE & ANR. .. RESPONDENTS

Mr. P.B. Shah for petitioners

Mr. S. S. Pakale for R-1

CORAM:-DR. D.Y. CHANDRACHUD, J.

DATED:- 7/7/2006

P.C.

. Rule, returnable forthwith. By consent of counsel and at the request of counsel that the petition be disposed of with certain directions, the following order is passed:

(1) Without the expression of any opinion of this court on the merits of the rival claims and contentions between the parties the impugned judgment and order dated 24th March, 2004 of the School Tribunal, Kolhapur passed in Appeal No. 145 of 2000 is quashed and set aside;

(2) Appeal No. 145 of 2000 is restored to the file of the School Tribunal;

(3) Parties shall appear before the Tribunal for receiving directions on 24/7/06;

(4) The Tribunal shall dispose of the appeal afresh after hearing the parties expeditiously, preferrably within a period of four months from the date on which the parties appear before the Tribunal;

(5) All the rights and contentions of the parties are kept open.

(6) The petitioners agree and undertake to produce the relevant roster before the School Tribunal on affidavit;

(7) The learned counsel for the 1st respondent submits that there is a vacancy available in the school. In the event that there is any such vacancy and without prejudice to the rights and contentions of the parties, the petitioner will give the 1st respondent employment in the meantime. This, however, shall be subject to the Education Officer verifying that a vacancy does exist. The employment of the 1st respondent, will in such a case be pending the disposal of the proceeding before the Tribunal and subject to the result of the proceeding before the Tribunal;

(8) The Education Officer shall within a period of two weeks from the receipt of this order by him determine as to whether a vacancy does exist. The Education Officer shall also determine whether the 1st respondent is otherwise eligible to hold the

post. In the event that the Education Officer certifies the existence of the vacancy, the petitioners who are before the court, agree to provide the employment to the 1st respondent upon the grant of approval by the Education Officer.

(11) The petition is accordingly disposed of.

(DR. D. Y. CHANDRACHUD)